

APPROVED: Meeting No. 36-82

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 34-82

August 30, 1982

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland and Vinson Street, Rockville, Maryland, on Monday, August 30, 1982, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

ABSENT

Councilman John Tyner, II
(on travel leave)

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow; Director of Planning Mike Davis; Public Information Officer Sue M. Patterson; Director of Recreation and Parks Ron Olson; Chief of Police Jed Stout; Director of Public Works Robert Goodin; Director of Community Development Douglas Horne.

Re: City Manager's Report

Mr. Blick reported the following:

1. Last Friday, 100 staff members from Richard Montgomery High School conducted their orientation briefing in City Hall. This portion of the briefing dealt with the Rockville community. Members of the City staff and community leaders addressed them.
2. A building permit has been issued to Berger, Berman Builders for the construction of 23 single family homes in the Fallsmead Subdivision.
3. The City Hall Blues, the staff's coed recreation softball team, were runners-up in the league championship and finished in second place.

Mayor Freeland asked if there was any information available yet on the success of the B & O Station's sale. The City Manager said the open house

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hosted a continuous stream of people, many of whom picked up bid envelopes, but it will be a while before bids are submitted.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Petition, residents of Heritage House, re problems with Country Inn and Rockville Deli.

Re: Information Items

The Mayor and Council noted the following items of information:

1. Letters in response to citizen complaint (Biser/Goodin 8/19/82)
(Cohen/Goodin 8/13/82)
2. Petition from Maryland Avenue residents re traffic concerns
3. Memo re Senior Center use as Polling Place
4. Memo re bussing of Meadow Hall School Children

Councilwoman Hovsepian said this memorandum seems to show that the bussing is being taken care of. The City Manager said it may not be what the citizens want in the long run. The staff will look into it further.

5. Dawson farmhouse disposition status.

Councilman Abrams suggested this item be put on the Mayor and Council's agenda in the next few weeks. In the meantime, the staff should spend some time looking into their options and expanding upon them. Councilman Duncan expressed his concern with the time factor since the goal is to preserve the farmhouse, and time wasted could result in further deterioration. He suggested that several paths be pursued in parallel fashion, such as the readvertising proceeding while the potential buyer proceeds with his process. The City Manager said that Peerless is doing the advertising so they will be handling the marketing, not the staff. The Mayor suggested this be addressed this evening under "New Business."

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

1. Hilary Harris. Mrs. Harris said that the neighborhood does not feel the Superintendent of Schools has answered their request for bussing in a satisfactory manner. The neighborhood is still bitter over the closure of Lone Oak School and feels it needs help in its appeal to the State to get bus service for their children. She requested the City Attorney's assistance in preparing an appeal to the State. Mayor Freeland assured Mrs. Harris of the Mayor and Council's concern and desire to assist. He did explain that the City Attorney's Office

is not a public defender type who is available to the citizens but is just a Mayor and Council adviser. He asked the City Manager to look into what type of assistance the staff might furnish.

2. Paul Sheckler, 185 Hardy Place. Mr. Sheckler told the Council that he lives behind the Wintergreen Shopping Center and is experiencing the same problems with noise as he told the Council about several weeks ago. He said the staff letter to the Management helped with the trash trucks only, but delivery was still going on at 3 a.m. He furnished the Council with a copy of the Montgomery County Noise Ordinance as it pertains to trash trucks and showed the violations that exist. When these concerns were brought to the attention of Montgomery County, the County Official explained that the County has no money to enforce the law. Mr. Sheckler proposed a meeting of the Council with Management. He also noted that the lighting that was recently installed at the back of the building shines in his house. The City Manager said a letter was sent to the Management, and the staff is now reviewing the Use Permit for Conditions of Use and Noise. When the review is complete, the staff will be in a position to discuss this further. He pointed out that the County Environmental Protection Agency is considering an amendment to its ordinance to do away with noise meters and have police officers make the determination when a noise should be penalized. The Mayor assured Mr. Sheckler that he would call the owner of the shopping center the next day. He said there are a number of things that need to be examined in detail.

3. Ben Gitnick, President of the West End Citizen's Association. He submitted to the Council a list of questions for the August 31st Information Meeting on the Garage Agreement to be conducted by the staff. He noted that these questions were furnished to the staff today so that the answers would be available tomorrow night. Mr. Gitnick said that his neighborhood was happy to see the K. A. T. program coming to West Rockville. It would seem now that the Head Start Program needs space and this is jeopardizing the K. A. T. Program. He said the neighborhood is working on it now with members of the staff.

4. John Brewer, 100 N. Van Buren Street. Mr. Brewer told the Mayor and Council that he is disappointed with the vote on the new poll issue. He is very sorry about the cost of the polls for the citizens. He also regrets that such a mail poll is being called a referendum when, in fact, it is not.

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He noted that he abhors the tendency of the Mayor and Council to abdicate its responsibility since nuclear discussion is certainly a local issue because it is a reflection of a citizen's views and attitude. He sees the mail poll as a precedent that could be a problem in the future, and he asks the Mayor to lead the Council away from this dangerous position.

There being no other citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Public Hearing: Text
Amendment Application,
T-52-82, Mayor and
Council of Rockville,
Applicant, requesting
an amendment to the zon-
ing and planning ordinance
as it deals with politi-
cal signs

The Mayor and Council conducted a public hearing on Text Amendment Application, T-52-82 and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed, with the record to be held open for two weeks.

Re: To Grant Exploratory
Application, RTH-2-82,
for residential town-
house development, W-B
Joint Venture, Applicant

Resolution No. 24-82

Councilwoman Hovsepien noted for the record that at the time of the hearing and discussions on this particular amendment, some statements were made that members of the staff favored the builder. She said those statements bothered her because she has always found the staff to act in a fair manner. Their thoughts and concerns are for the future citizens of Rockville, and at all times, the staff attempts to do its best not only for the people who live here, but for those to come.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, Resolution No. 24-82, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, granting exploratory application, RTH-2-82, was adopted by the Mayor and Council.

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Re: Resolution: To amend
fee schedule for zoning
applications and other
permits and applications

Resolution No. 25-82

City Attorney Glasgow pointed out for the Council that the only change in this resolution is the adoption of a rate for temporary fees. Other than that, all other fees remain the same.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, Resolution No. 25-82, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, amending the fee schedule for zoning applications, was adopted by the Mayor and Council.

Re: Approval of waiver of
on-site storm water
management and acceptance
of fee of \$57,517 for off-
site contribution.

This parcel comprises 25.5 acres for storm water management purposes located in the "campus-type" industrial zone, and bounded by Interstate 270 on the east and proposed Gude Drive on the south and proposed Research Boulevard on the west.

The storm water runoff from this site flows into the upper reaches of a tributary of Watts Branch about 2,200 feet above a proposed storm water management facility known as National Capital Research Park. The facility (CIP project E-23) is designed to provide 8 acre-feet of water storage.

The owners of the site, Prudential Insurance Company, have asked for a partial waiver amounting to 43.376% of the total storage required under our ordinance. Of the total amount of 4.68 acre-feet required, 2.65 acre-feet of storage is proposed on-site by the use of shallow dry basins which, in good weather, can be used for recreation and leisure by the buildings' occupants. The remaining 2.03 acre-feet required can be accommodated in the off-site storage at National Capital Research Park. The calculation for the contribution for off-site SWM is based on 43.376% of 25.5 acres times \$5,200 per acre, the rate for this development, or \$57,517.

If this partial waiver is not granted, then detention storage would have to be placed on-site but in underground chambers. Such chambers are expensive,

are difficult to maintain and are difficult for the owners or staff to gauge effectiveness. Further, the site plan would have to be altered to accommodate this storage by reducing building size and number of parking spaces.

Because the off-site SWM facility is nearby and because the cost of on-site detention is high and maintenance is difficult, the City Storm Water Management Committee recommends that the Mayor and Council grant the partial waiver and accept the contribution of \$57,517 toward off-site SWM facilities, subject to concurrence by the Montgomery County Soil Conservation District.

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote of all present, waiver of on-site storm water management was approved and a contribution of \$57,517 accepted.

Re: Award of Contract:
Bid #5-83, Application of Root Control Agent and Bid #6-83, Chemical Root Control Agent

Two years ago, the City began chemical root control in sanitary sewers with the effect of reducing root-caused main lines stoppage and lateral stoppages at the main line connections. Mayor and Council awarded the FY 82 contract in June 1982 and staff is now seeking authority to contract for FY 83 chemical root control. Each contract was for five miles of sewer.

There were 44 invitations for bid sent to prospective bidders for the chemical root control agent and 33 invitations for bid sent to prospective bidders for the application of the chemical root control agent. The following bids were received:

I. Supply of Chemical Root Control Agent (240) gallons) - Bid 6-83

| | |
|--|---------------|
| VALLEY SYSTEMS CO., Canal Fulton, Ohio @ \$7.29 per gallon | * \$ 1,749.60 |
| DUKES SALES, Syracuse, New York, @ \$41.50 per gallon | \$10,440.00** |

* Does not meet specifications.

** Includes \$480 freight.

Valley Systems called the purchasing agent stating that they had made an error and could not furnish the chemicals as quoted but could furnish chemicals at \$43.75 per gallon.

II. Application of Chemical Root Control Agent - Bid 5-83

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| | |
|--|-------------|
| EASTERN PIPE SERVICE, Nashua, New Hampshire @ \$0.27 per foot* | \$ 7,128.00 |
| DUKES SALES AND SERVICES, Syracuse, New York @ \$0.44 per foot | \$11,616.00 |
| VALLEY SYSTEMS, Canal Fulton, Ohio @ \$2.25 per foot** | \$59,486.00 |

* Does not meet specifications.

** (\$2.25 per foot for 8" diameter, \$2.15 for 6" diameter, \$2.35 for 10")

Eastern Pipe Service is not a Registered Pesticide Applicator Business registered in the State of Maryland as required by the State nor do they have any employee certified to apply the chemicals in Maryland (also as required by the State).

SUMMARY OF LOW BID: Supply of Agent (\$10,440) plus Application of Agent (\$11,616) totals \$22,056. Amount budgeted for this work is \$25,000.

As noted in the attached memo, the cost in FY 81 was 95 cents per lineal foot and in FY 82 was 88 cents per lineal foot, and would be 83.5 cents per lineal foot based on the Dukes Sales Bids.

Staffs recommend that Mayor and Council award the two bids to Dukes Sales and Service, Syracuse, New York as follows:

- 1 - Bid #5-83 for the application of Chemical Root Control Agent for \$11,616; and
- 2 - Bid #6-83 for the purchase of Chemical Root Control Agent (chemicals and freight), for \$10,440.

Councilwoman Hovseplan noted the decline in price from \$.95 per foot in FY 81 to \$.88 in FY 82 and \$.835 per foot on this bid.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, Bids #5-83 and 6-83 were awarded to the Dukes Sales and Service Company in the amount of \$11,616 and \$10,440 respectively.

Re: Award of Contract:
Bid #9-93, Traffic
Signal Maintenance

Bids were opened Thursday, August 19 for Bid #9-83, the City's annual traffic maintenance contract which covers certain specific repairs plus the routine maintenance, materials and emergency repairs at 13 signalized intersections. Of 14 signalized intersections for which the City is responsible, one intersection - Twinbrook Parkway at Chapman Avenue -- is maintained by Montgomery County as part of its Rockville Pike signal system.

One bid was received for this contract:

HAWKINS ELECTRIC COMPANY, INC., College Park, Md. \$14,100

The contract office invited thirty companies to bid, of which only Hawkins expressed serious interest. Last year, on an invitation to 60 companies, two expressed interest, but only one (Hawkins) bid. The low response is indicative of the nature of traffic signal maintenance -- a highly sophisticated specialty in which few contractors are qualified.

Last year's bid award was \$11,466 to Hawkins Electric. The increase this year reflects the addition of the traffic signals on Park Road and the full year of maintenance for the traffic signal at Gude Drive and Taft Street and is an increase of 9%.

Hawkins Electric has been the maintenance contractor for the last several years and continues to perform satisfactorily. Staff recommends that this contract be awarded to Hawkins Electric for the low bid of \$14,000.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Bid #9-83 for traffic signal maintenance was awarded to Hawkins Electric in the amount of \$14,100.

Re: Authorization to
apply for grant to
develop oral history
for Rockville

Requested this evening is Mayor and Council approval of the submission of a grant that would develop an oral history for Rockville. The project is entitled "Rockville Recalled," and it is an attempt to set forth a sense of 20th century Rockville as it has undergone its change from a rural center to a thriving city, the second largest in Maryland. The project director is Eileen McGuckian who would be involved in the project as would Marta and David Kelsey of the ViCom Company, Photographers. Barbara Nickerson, Chairman of the Rockville Humanities Commission, briefed the Council on the background of the project, explaining that the Mayor and Council gave \$1,300 of funds during the budget to the Commission to apply towards the production of an oral history. As the Humanities Commission reviewed this idea, the grant came to mind which would seek State funding and combine this with the Commission's dollars, and using staff time, the result could be the oral history. She asked permission this evening to pursue the grant. Councilwoman Hovsepien asked the City Manager what other projects the staff would have to give up in order to pursue this. The City Manager said that it is difficult

to assess at this time since he is not sure what demands will be placed on the staff. He just asked the Mayor and Council's understanding when the staff cannot do projects they suggest since it is being involved in this project.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, authorization was given to apply for the grant.

Re: Establishment of WRITE
(Witness Reports in
Traffic Enforcement)
Program

Chief Stout has noted the possibility of following up on reports from citizens about specific motorists who are speeding through neighborhoods. Letters could be sent to motorists who are the subject of these complaints to remind them that their fellow citizens have noticed their speeding and do not appreciate the way they are driving.

Chief Stout points out that sending such letters could be beneficial to traffic enforcement, but could also present some risks. These risks were considered in developing the tone of the draft letter. The Chief notes that the tone is one intended to appeal to the owner's sense of responsibility and self-interest in avoiding more serious action and costs in injuries or fines. It must stand well this side of being accusatory because the chance of error in reading the license tag number is substantial. And, if the citizen were wrong, some persons receiving it could well be angered and question the City's judgment in writing at all. There is another risk that the reports could become a weapon used in disputes between neighbors, and the City could become involved. Or, viewed another way, the recipient of the letter identifies or thinks they have identified the complainant, and starts a dispute. On balance, it would seem the risks are acceptable. The City Manager recommends it be approached to see what actual experience may bring.

The City Manager further briefed the Council on this project and answered Councilman Duncan's question by saying there were no guarantees to prevent abuse, but at all times, an effort would be made to minimize. Mayor Freeland suggested a time limit of 6 months be put on the program with a report and evaluation at that time, and he also noted that the public relation's approach to this project is extremely important.

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous

vote of all present, the staff was authorized to institute the Witness Reports in Traffic Enforcement (WRITE) Program and in 6 months return to the Mayor and Council with a report and evaluation.

Re: Status Report on
Emergency Assistance
Program

During the budget work session, the Mayor and Council postponed consideration of the approach to fund-raising desired for the Emergency Assistance Program pending collection of additional data.

As the most recent data indicate, use of the program has increased, but by the end of July less than \$10,000 of the \$97,000 Emergency Assistance funding for FY 1983 had been dispersed. Community Resources staff feel that the number of requests for assistance will continue to increase. They also believe that many people may be facing emergencies who have not been reached through referrals and other methods of outreach. Because the program is intended as a "last resort," emergency resource for people who have exhausted other avenues of assistance, staff has intentionally relied on referrals and other low-profile methods of reaching clients. The result may be that individuals who have emergencies but who are not familiar with the various social service agencies also may not be aware of the Emergency Assistance Program.

Staff recommends that at this time:

- . The Mayor and Council again postpone a decision on initiating a full scale fund-raising program before several additional months of experience with levels of use.
- . That staff expand the methods of reaching clients by such methods as announcements in the City newsletter, public service announcements, news release, notices on bulletin boards in appropriate locations, etc. However, the emphasis in all such information efforts should be on the temporary, "last resort" nature of the assistance available.
- . That staff resume relatively low-key methods of fund-raising, such as announcements in the newsletter, media releases, public service spots, letters to civic organizations, and other community groups.

Councilwoman Hovsepian suggested that the Mayor and Council be briefed on the needs that exist in the Rockville community and what is being offered

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in the private sector to take care of those needs. The Mayor agreed that this would be an excellent suggestion. He also suggested that the interest from the investment of the funds be used as a match for funds from other parts of the community. In this way the program could be perpetuated rather than running out when the funds run out, as the need will always be there.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, the Mayor and Council concurred in the staff's recommendations listed above.

Re: Review of Questionnaire to be sent to School Board Candidates

This is a questionnaire that will be mailed out to School Board Candidates in the November 2nd General Election. The issues that were deemed as high priority for candidates' response are as follows:

1. The importance that the City Master Plan should have in Board of Education long range planning;
2. Rockville schools should be in a single geographic planning area;
3. The Richard Montgomery cluster should be preserved even if boundary changes are required; and
4. The Advisory Commission on Public Education should be created to work with the School Board.

Councilman Duncan suggested that the fourth question should be in 2 parts, A. and B., A. being that the Rockville Commission should be created, and B., the Commission should have a close working relationship with the Board.

Councilwoman Hovsepian noted that of the groups that were represented at the meeting, there was no representation from across Route 1-270 on question 3. She asked if there was any information. The City Manager noted that all were invited, but summer is a busy time. The Mayor asked that the City Manager wait a few more days for response from that sector of the community and then follow up with phone calls and ask those people in the western sector how they stand on the questionnaire.

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote of all present, the questions were approved, including No. 4 being separated into Section A. and Section B.

Re: Review of Town Center
Parking Management
Plan

The City Manager presented the Town Center Parking Management Plan to the Council and read from an outline that he prepared, highlighting the points addressed in the plan. He asked that the proposal be sent to the members of the citizens boards and neighboring civic associations for their review and comment. The Mayor also suggested it be sent to Windmar/Nordal for their information and to property owners for comment. Councilwoman Hovsepien asked if the Town Center Parking Committee has been formed. The City Manager said letters were sent asking for participation, and after review, names will be coming to the Council for appointment on September 13, 1982.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Council instructed the staff to move forward with the Parking Management Plan and forward it to the appropriate people for review and comment.

Re: Establishment of
"Friends of the Arts"
to assist the Perform-
ing Arts Series Program

The City Manager told the Council that in order to help reduce the City's subsidy to the performing arts series, and in order to keep from having the performing arts series divert the attention of City staff members from other high priority projects, it is imperative that a "Friends of the Arts" non-profit organization be established as soon as possible. It is believed that active participation by members of the Mayor and Council will assist in getting a viable "Friends of the Arts" organization in place. It is recommended that the Mayor and Council:

1. Approve the "Friends of the Arts" non-profit organization in concept.
2. Recruit and appoint a Board of Directors to serve for the first year. This initial Board would file the necessary articles of incorporation and apply for a Federal IRA non-profit status.
3. Recruit other individuals to join "Friends of the Arts," especially in time to help out with the September performances.

Mayor Freeland commented that there is certainly a necessity of speedy

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action if it is to be of any help this season.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, the Council approved the first recommendation and approved the non-profit organization in concept. Councilwoman Hovsepien asked for suggestions as to how to get members. Mr. Olson said it will be necessary for the Council to solicit people who believe in the program and who are energetic. He added that at last year's performances, the audience filled in cards if they were willing to help with the program, and these might be helpful for initial appointments. Councilman Duncan suggested a member of the Mayor and Council's office be on the board of directors since it would be a good liaison. Mayor Freeland suggested that member as an option but not a prerequisite.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, the Council agreed to recommendation No. 2 with the option of having a Mayor and Council member on the board. Councilwoman Hovsepien asked for suggestions from the staff as to membership. Mr. Olson thought 12 would be a good number to begin. Mayor Freeland said it would be necessary for people in the city to want to support the program if it is to continue. Councilwoman Hovsepien said those who live outside the city who are interested should not be excluded from appointment. Councilman Abrams thought maybe the program should be tried for one year as a limit to the people of Rockville. The City Manager agreed that the people outside the city should be involved if they wish to help, but it was his feeling that the initial board of directors should be kept to Rockville residents. Mayor Freeland disagreed with the City Manager, and people should be invited to come together to make it successful. That is the object. By limiting membership, the success could be jeopardized. Mr. Olson said he had about 20 cards that had been filled in at performances and another list with about 12 people on it, three-fourths of which were Rockville. Councilwoman Hovsepien said she has no objection to considering Rockville people first, but she would not like to rule out the others. Mayor Freeland said the decision on Rockville membership will be made when the staff's recommendations come forward. (At this time Councilman Abrams left the meeting.)

Re: Adoption of Ordinance:
To Amend Chapter 14 of
the Laws of Rockville
to adopt the 1981 BOCA
Basic Building Code

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Ordinance No. 22-82

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote, Mayor Freeland and Council members Duncan and Hovsepian, voting "aye," Ordinance No. 22-82, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, adopting the 1981 BOCA Basic Building Code, was approved by the Mayor and Council. (At this time, Councilman Abrams returned to the meeting.)

Re: Adoption of Ordinance:
To Amend Chapter 14A
of the Laws of Rockville
to adopt the 1981 BOCA
Basic Plumbing Code

Ordinance No. 23-82

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Ordinance No. 23-82, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, adopting the 1981 BOCA Basic Plumbing Code, was approved by the Mayor and Council.

Re: Adoption of Ordinance:
To Amend Chapter 14B
of the Laws of Rockville
to adopt the 1981 National
Electric Code

Ordinance No. 24-82

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote of all present, Ordinance No. 24-82, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, adopting the 1981 National Electric Code, was approved by the Mayor and Council.

Re: Adoption of Ordinance:
To Amend Chapter 14F
of the Laws of Rockville
to adopt the 1981 BOCA
Basic Mechanical Code

Ordinance No. 25-82

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, Ordinance No. 25-82, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, adopting the 1981 BOCA Basic Mechanical Code, was approved by the Mayor and Council.

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Re: Adoption of Ordinance:
To Amend Chapter 14G of
the Laws of Rockville to
adopt the 1981 Basic
Energy Conservation Code

Ordinance No. 26-82

On motion of Councilwoman Hovsepian, duly seconded and passed by unanimous vote of all present, Ordinance No. 26-82, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, adopting the 1981 Basic Energy Conservation Code, was approved by the Mayor and Council.

Re: Adoption of Ordinance:
To Adopt a new Chapter 14H
of the Laws of Rockville
entitled, "One and Two
Family Dwelling Code."

Ordinance No. 27-82

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, Ordinance No. 27-82, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, adopting the "One and Two Family Dwelling Code," was approved by the Mayor and Council.

Re: New Business

1. The Council once again reviewed the status of the Dawson house. Councilman Abrams requested that this be placed on the Mayor and Council's next agenda, at the same time a text amendment for a planned residential unit be developed by the staff, and he also suggested that Peerless Rockville be permitted to proceed with the advertising process while the potential buyer proceeds with his role pursuing the text amendment.

The City Manager briefed the Council and said it was decided that the City would allow Peerless Rockville to handle finding a buyer for the Dawson farmhouse who would also renovate, preserve, and reside in it.

In early July, Peerless advertised in the Post, Journal, and Sentinel newspapers seeking someone to purchase the house and renovate it. After reviewing numerous inquiries, Peerless felt that Mr. Cantelon's proposal was the most solid. His proposal fits within City requirements except for his plan to have a profit-making business located in the house. Under the PRU process, profit-making uses are allowed through the process; however, since the house is surrounded by residential homes it causes a problem. Mike Davis, Director of Planning; Larry

Owens, Chief Planner; Bernie Fitzgerald, Property Negotiator, all feel that a commercial use in the house should not be allowed. There is a possible approach to seeking an exception to the for-profit historical and archival consulting business which is not a permitted use in the R-60 zone. Staff is not in favor of Mr. Cantelon's proposal if the for-profit business remains because:

1. the house is surrounded by residential property
2. the neighborhood has not been informed or is aware of this use
3. allowing this use would set a precedent for future cases
4. as a matter of review of PRU zoning, the planning staff feels it is not consistent with good planning principles

Staff offered Peerless two alternatives: a) to have Mr. Cantelon drop his for-profit use and then staff would support the project; b) to advertise again to seek further proposals of interest that would fit into the City's original requirements. Since Peerless indicates that the first alternative is not feasible, the staff recommends proceeding immediately with the second.

Mr. Davis, at the request of the City Manager, outlined the zoning alternatives.

Three alternative courses that could be pursued to enable Mr. Cantelon to possibly purchase and occupy the old farmhouse and be able to conduct the activities planned:

I. Zoning Text Amendment:

A zoning text amendment to allow a commercial operation to mix with a residential operation in a residential zone would be very difficult to devise, and could set a precedent that could have major implications for other areas of the City. To expand the definition of home occupation in the Zoning Ordinance could have equal ramifications and most probably receive substantial citizens' opposition as well as opposition from the Planning Department.

II. Zoning Map Amendment

This alternative was discussed and the conclusion focused on the O-2 Zone as the most appropriate zone given the proposed uses anticipated. The O-2 Zone is for the purpose of providing office space for private, quasi public and public uses, to stabilize residential neighborhoods near commercial and office use by establishing a transition between

such uses and nearby residential uses, and to promote the preservation of existing residential structures.

However, it is seriously doubted that the "change or mixed" rule could be satisfied given the location of the farmhouse and the fact that it is not a transitional use between existing commercial and residential areas.

III. Amend the Original PRU Exploratory Application

Of the three alternatives this would appear to be the most feasible.

It would involve an application to amend the original Exploratory Application to be filed, reviewed, and approved by the Mayor and Council after public hearing. The two proposed uses identified previously as being inconsistent with the base zoning of the property could be defined as general and professional office uses not dealing directly with the general public (permitted in C-1 neighborhood commercial zone). Reference is made to the following sections of the Zoning and Planning Ordinance that would deal with "Waiver or Modification of Use Restrictions" under a Planned Residential Unit Development -- Sections 5-403(c); 5-418(f); 3-309.

A decision will have to be made by the Mayor and Council as to whether it desires to permit multiple uses within a single building or structure within a PRU. This is an issue that has not surfaced previously in regards to past PRU's. There is nowhere in the zoning ordinance where the mix of residential and non-residential activities within a single structure is expressly prohibited. The idea that the prospective property owner would also reside within the structure and would conduct a series of activities ranging from home occupation through non-profit and for-profit services would warrant a conscious decision by the Mayor and Council to permit multiple uses within the same structure in future PRU's as a matter of policy.

Councilman Abrams suggested a new classification called "commercial historic use" and just add permitted use capital "P" in the C-1, commercial zone.

The City Attorney said that would also require an amendment to the C-1 zone classification, and any change must be done carefully so as to avoid inadvertent action with the best intention. Councilwoman Hovsepian asked if the

amendments would go with the owner or with the land. The staff explained they would go with the land. The City Manager said the neighborhood will be bothered with cars, employees, etc., and activity would have to be limited. There is no way the Mayor and Council can make a change that would have a deleterious effect on the neighbors. Councilman Abrams said this is an extraordinary situation to save the building, and he believes the staff will agree with that and then workin safeguards. A policy guideline from the Mayor and Council is that something should be done to resolve the problem legally, with minimal precedential value but in a timely fashion. The Mayor agreed. He said he could not see this having any effect on the neighborhood since the older neighborhood is so distant, and the newer neighbors have no basis for comparison. A unique problem calls for a unique solution, and time is of the essence. He asked if the City could file and start the process moving. He said he could see no need to readvertise and go through that problem. The Council agreed with Councilman Abrams' motion to have the staff proceed with the text amendment for the PRU amendment, at the same time permit Peerless to proceed with advertising while the potential buyer moves forward with his options, all things working at the same time to bring about a fast conclusion to the problem. The motion passed by unanimous vote of all present.

2. The City Manager referred to the Council, a sample of the balloting that will be used for the poll on the nuclear resolution and asked if the Council has any comments. The Council suggested instead of taking a position, the words "no opinion" be substituted. They asked that the staff do something to assure that what is sent to the voters is returned and there be no problems or falsification of cards. The question of "absentee ballots" was raised by the Clerk, and the Council agreed that any requests for absentee ballots should certainly be honored.

3. The City Manager asked the Council about the special testimony on Bill 39-82 and 40-82 which will be up for hearing before the County Council. The City Manager was instructed to work with the Chapter President of the Maryland Municipal League, and the Mayor and Council will agree to the approved testimony.

Re: Adjournment

There being no further business to come before the Council in General Session, the meeting was adjourned at 11:15 p.m., to meet again in Executive Session on Tuesday, September 7, 1982, at 7:00 p.m., and in General Session on Monday, September 13, 1982, at 8:00 p.m. or at the call of the Mayor.

APPROVED: Meeting No. 37-82

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 34a-82

September 7, 1982

The Mayor and Council met in executive session on Tuesday, September 7, 1982, at 7:00 p.m., in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, to discuss property disposition and litigation.

PRESENT

Mayor John Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session the meeting was adjourned at 10:30 p.m. to convene again in general session on Monday, September 13, 1982.